

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10378 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SUMANBEN VIJAYBHAI DALWADI

Versus

DISTRICT COLLECTOR

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Appearance:

MR MP PRAJAPATI for Petitioner

MR.HM BHAGAT for Respondent No. 1, 2 and 3

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CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 16/01/97

ORAL JUDGEMENT

Rule. Mr. H.M.Bhagat, learned counsel waives the service of Rule on behalf of respondents nos.1,2 and 3. At the request of learned advocates appearing for the parties, petition is heard today.

2. By means of filing this petition under Art. 226 of constitution, the petitioner has prayed to issue a

writ of mandamus or any other appropriate writ or order directing the respondent no.1 to execute quarry lease in Form -D of G.M.M.R. in respect of Survey Nos. 2,5,7 and 258 of river bed of village Dhoran Pardi, Tal. Kamrej, Dist. Surat in favour of petitioner. In the alternative, the petitioner has prayed to direct the respondent no.3 to decide the case pending before him as per the directions contained in order which is produced at Annexure C to the petition.

3. On September 28, 1992, petitioner made an application to obtain quarry lease. The Collector Surat, Dist. Surat rejected the same by an order dt. November 27, 1992. Feeling aggrieved by the order of Collector, the petitioner preferred an appeal which was also rejected on March 30, 1993. The petitioner, therefore, preferred revision application before the State Government. The State Government allowed the revision application by an order dt. April 29, 1994 and remanded matter to respondent no.1 for fresh consideration. The order passed by the State Government in revision application filed by the petitioner is produced at Annexure B to this petition. After remand, the respondent no.1 rejected application of the petitioner by an order dt. May 26, 1995. The petitioner and two others therefore preferred revision application before the State Government. Again by an order dt. November 29, 1995, the State Government has allowed the revision application and remanded the matter to respondent no.1 for reconsideration. That order is produced by the petitioner at Annexure C to the petition. As the matter is pending consideration before the respondent no.1, pursuant to the order passed by the State Government, it would not be proper for the court to grant relief claimed in Para 20(A) of the petition. However, there is no manner of doubt that though necessary directions have issued by the State Government, the respondent no.1 has not considered the matter again on merits. On the facts and in the circumstances of the case, I am of the opinion that interest of justice would be served if the respondent no.1 is directed to dispose of proceedings pending before him within stipulated time.

4. For the foregoing reasons, petition partly succeeds. The respondent no.1 is directed to decide the application of the petitioner on merits and in accordance with law as early as possible and latest before February 28, 1997. Rule is made absolute accordingly with no order as to costs. Direct service is permitted.

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